IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

WP(C).No. 32586 of 2006(D)

PETITIONER:

SUNIL, AGED 32 YEARS,
S/O.KUNJAN BAVA, KANNADITHARA HOUSE,
PALAMITTAM ROAD, EDAKOCHI, KOCHI-1.

BY ADV. SMT.SADHANA KUMARI ESWARI
SMT.GISA SUSAN THOMAS

RESPONDENTS:

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1. THE SUB INSPECTOR OF POLICE,
KOCHI KASABA POLICE STATION, KOCHI.

2. SAJI.P.S., D/O.LEELA,
PATHICKATHARA NIKARTHIL HOUSE,
PALAMITTAM ROAD, EDAKOCHI, ERNAKULAM.

BY G.P. SRI. GIKKU JACOB.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R. BASANT, J.

W.P.(C) NO.32586 OF 2006

Dated this the 19th day of December, 2006

JUDGMENT

The petitioner faces an allegation of rape in Crime No.352/06 of the Kochi Kasaba Police Station. An F.I.R. was registered on 5/8/06. The petitioner has not been arrested so far.

2. The petitioner has come to this Court with a strange request. He submits that he is absolutely innocent. This fact will be clear if a D.N.A. test is conducted. The victim/the de facto complainant only alleges that she was impregnated in a physical relationship which the petitioner had with her under the circumstances which, according to her, amounted to the offence of rape. According to the petitioner, he is not responsible for the pregnancy of the 2nd respondent and that this fact will be evident by the conduct of D.N.A. test. Police is not doing the same. The petitioner offers to get the D.N.A. test conducted at his expenses, if necessary, so that he can get himself cleared of unnecessary allegation and charge.

3. The learned Public Prosecutor, after taking

instructions, submits that the police shall be taking necessary steps to get the D.N.A. test conducted. The petitioner may be directed to co-operate with the investigation, it is submitted.

4. In the peculiar facts and circumstances of this case, I am satisfied that, as agreed by both sides, appropriate directions can be issued.

5. The petitioner shall appear before the Investigating Officer at 11 a.m. on 22/12/2006 and shall co-operate with the conduct of the D.N.A. test by the Investigating Officer. The learned counsel for the petitioner offers and the learned Public Prosecutor accepts the said offer that the petitioner shall provide the funds for the conduct of the D.N.A. test at the earliest.

6. It is further held that the following further directions are also issued in the interests of justice:

(i) The petitioner shall appear before the learned Magistrate at 11 a.m. on 21/12/2006.

(ii) He shall be released on bail on his executing a bond for Rs.50,000/- with two solvent sureties each for the like sum to the

satisfaction of the learned Magistrate.

7. This writ petition is allowed to the above extent.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge